

INTERVIEW SUMMARY

The undersigned conducted a telephone conference with the SPE, Long Le, on September 21, 2009. The undersigned sought an Interview before the end of the 2-month reply date. Applicant appreciates the SPE's time in the Interview.

In the discussion, the undersigned brought to the attention of the SPE the prosecution history of the above-captioned application with regard to the Restriction Requirement mailed March 25, 2008. The undersigned discussed with the SPE that the Restriction Requirement was the third Office Action in the file history and that the Examiner, through the Restriction Requirement, asserted that searching all claims would be burdensome even though in the previous Office Action, the Examiner had examined the same claims without asserting such a search burden. The undersigned also brought to the attention of the SPE that the claims newly added in the Response to the Restriction Requirement were directed to the subject matter that the Examiner had asserted was the distinction between the asserted inventions and that the Examiner indicated that the newly added claims would not be entered because they were directed to a non-elected invention.

In addition, the undersigned explained to the SPE that the Examiner had changed the asserted distinctions between the inventions in what was presented in the Restriction requirement and what was presented in the Final Office Action.

Furthermore, the procedure that the Examiner used to issue the Final Office Action immediately after the Restriction Requirement was discussed.

The SPE indicated that he would confer with the Examiner regarding that discussed in the interview and let the undersigned know in a subsequent telephone conference what was discussed with the Examiner. The undersigned was left with the impression that the SPE would review the restriction/finality issues in a favorable light and of that one or both of the restriction and the finality would likely be withdrawn.

Given that the 2-month date to respond to the Final Office Action has come, the undersigned has prepared this Interview Summary/Response to be filed with the US PTO to coincide with the 2-month date to respond to the Final Office Action. Nevertheless, while the SPE has not yet called the undersigned regarding a discussion with the Examiner, the undersigned appreciates the SPE's continued efforts to resolve these matters and continues to look forward to a telephone call from the SPE.

REMARKS

Claims 1-17, 19-28, and 30-32 are pending in the present application. In the Final Office Action mailed July 24, 2009, the Examiner rejected claims 1 and 4-16 under 35 U.S.C. §102(b) as being anticipated by Atalar et al. (USP 6,628,980 – hereinafter Atalar). The Examiner next rejected claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over Atalar in view of Nevo (USP 6,516,213).

Request for Reconsideration

Claims 17, 19-28, and 30-32 have been withdrawn from consideration by the Examiner. Applicant requests reconsideration.

In the Restriction Requirement mailed March 25, 2008, the Examiner stated that the identified inventions (invention I and invention II) were distinct because “the combination as claimed does not require the particulars of the subcombination as claimed because the limitations included in the subcombination, i.e. wherein the gap formed between the plurality of RF coils and the housing is configured to increase RF sensitivity away from the probe.”

In the Response to the Restriction Requirement, claims 1–16 of the subcombination were elected, and new claims were added to the claims of the combination directed to the distinction asserted by the Examiner between the inventions. That is, claims 31 and 32 were added to the combination claims that are directed toward the gap and increasing RF sensitivity away from the catheter/former.

In the Final Office Action, however, the Examiner stated that the newly added claims would not be entered and are withdrawn because they were directed to non-elected claims. The Examiner then proceeded to assert new distinctions between the identified inventions that were not presented in the Restriction Requirement. Accordingly, the grounds for requiring the Restriction Requirement were changed.

In addition, prior to the Restriction Requirement, the Examiner had issued an Office Action on September 11, 2007, in which the Examiner had searched the identical claims as those asserted in the Restriction Requirement without a search burden being expressed.

Since the newly added claims were directed directly to the subject matter that the Examiner had asserted was the distinction between the inventions, Applicant does not understand how the Examiner can assert that these newly added claims are withdrawn from consideration as being non-elected claims. Given that the distinction identified by the Examiner between invention I and invention II in the Restriction Requirement was overcome because of the newly

added claims, a rejoinder of all claims is therefore due, and Applicant requests reconsideration thereof.

Rejection of the claims

In the Final Office Action and in response to arguments filed by the Applicant, the Examiner stated that Atalar expressly teaches “an expendable probe 870 (i.e. a self expanding housing...) a plurality of RF coils 804 attached to the probe 870 (see Fig. 8A) wherein a gap formed between the plurality of RF coils and the housing is configured to increase RF sensitivity away from the probe 802 (see col. 16, l. 64- col. 17, l. 24).” *Final Office Action*, 07/24/09, p. 9. Applicant respectfully disagrees.

Fig. 8A of Atalar discloses an expandable probe 870 comprising a coil region 804, and a tubular member or sheath 802. *See also col. 16, lns. 12-37*. It is clear from both Fig. 8A and its corresponding text that the expandable probe 870 is not a separate structural element from the coil region 804 or the sheath 802. As illustrated in Fig. 8A, the expandable probe 870 is identified by an arrow pointing generally to the probe that comprises the coil region 804 and sheath 802 as constituent elements. That is, the expandable probe 870 is made up of at least the coil region 804 and the sheath 802. Accordingly, the Examiner's statement that plurality of RF coils 804 is attached to the probe 870 is not accurate. That is, the plurality of RF coils or coil region 804 is a part of the expandable probe 870. Therefore, the coil region 804 is not attached to itself.

Furthermore, since the coil region 804 is a part of the expandable probe 870, Applicant does not believe that the Examiner can show that there is any gap between the coil region 804 and itself. The teachings in Atalar cited by the Examiner in col. 16, l. 64- col. 17, l. 24 also fail to teach or suggest that a gap between the coil region 804 and any other structure is configured to increase RF sensitivity away from the coil region 804.

Accordingly, Applicant believes that the art of record fails to teach or suggest that called for in claim 1 or any claim depending therefrom. As such, Applicant requests withdrawal of the rejections of claim 1 and the claims depending therefrom under 35 U.S.C. §102(b) as being anticipated by Atalar.

Further, Applicant believes that the art of record fails to teach or suggest that called for in any of claims 17, 19-28, and 30-32.

Conclusion

Therefore, in light of at least the foregoing, Applicant requests a rejoinder of all claims and respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-17, 19-28, and 30-32.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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Attorney Docket No.: GEMS8081.204

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General Authorization and Extension of Time

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 07-0845. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 07-0845. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 07-0845. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 07-0845.

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